HON'BLE THE CHIEF JUSTICE SRI G.S. SINGHVI
AND
HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

Writ Appeal No. 246 of 2007

Between:

L. Naidu

… Appellant

And

The Chairman,
The Industrial Tribunal-cum-Labour Court,
Visakhapatnam & another

… Respondents

:: J U D G M E N T ::

Counsel for the appellant : Shri T.S. Rayalu

June 4, 2007

Per G.S. Singhvi, CJ

Undeterred by adverse orders passed by the Presiding Officer of the Industrial Tribunal-cum-Labour Court, Visakhapatnam (for short, 'the Tribunal') and the learned Single Judge of this Court, who

declined to interfere with the disciplinary action taken by the employer i.e. Depot Manager, Andhra Pradesh State Road Transport Corporation, Gajuwaka Depot, Visakhapatnam District (respondent No.2 herein), the appellant has preferred this appeal under Clause 15 of the Letters Patent.

The appellant was appointed as Conductor in Gajuwaka Depot of the Andhra Pradesh State Road Transport Corporation (for short, 'the Corporation') on 16-1-1979. On 27-2-1983, the bus plying on Collector's Office – Dibbapalem route was checked by the officers of the Corporation. They found that the appellant had collected fare from 11 lady passengers, but did not issue tickets to them. They further found that as many as 40 passengers were travelling without tickets. On receipt of the report of the checking party, the appellant was placed under suspension and a regular departmental enquiry was initiated against him. The enquiry officer submitted report with the finding that the charge of financial misdemeanour has been proved against the delinquent i.e. the appellant. Respondent No.2 accepted the enquiry report and removed the appellant from service with effect from 25-2-1984.

The appellant challenged his removal by filing an application under Section 2-A(2) of the Industrial Disputes Act, 1947 as amended by Andhra Pradesh Act No.32 of 1987. The same was registered as I.D.No.48 of 1983. He pleaded that the enquiry held by the employer was an empty formality, that he was not afforded reasonable opportunity, that the findings recorded by the enquiry officer are biased and perverse, that there is no evidence to substantiate the charge and that the punishment was disproportionate to the charge levelled against him.

In the counter filed on behalf of the respondents, it was averred

that the penalty of removal was imposed on the workman because he was found guilty of financial misconduct. The allegation of denial of opportunity was controverted and it was averred that the enquiry officer gave the delinquent full opportunity to cross-examine the witnesses and produce evidence in defence.

On the pleadings of the parties, the learned Presiding Officer of the Tribunal framed the following points:

1. Whether the domestic enquiry held against the petitioner workman is proper and valid?
2. Whether the petitioner-workman is guilty of any misconduct or negligence?
3. Whether the termination of the services of the petitioner is proper and justified? And if so to what relief he is entitled to?

The learned Presiding Officer then referred to the evidence produced by the parties and held that: (i) the enquiry conducted against the delinquent was fair and proper; (ii) that he was served with the charge sheet and was given full opportunity to rebut the evidence produced by the department; (iii) that the enquiry officer had correctly evaluated the evidence and concluded that the charge is proved; (iv) that the finding recorded by the enquiry officer was based on legally admissible evidence; (v) that the explanation given by the delinquent that he could not issue tickets because of overloading the bus was unbelievable, and that the punishment of removal was commensurate with the misconduct found proved against him.

Writ Petition No.35509 of 1998 filed by the appellant was dismissed by the learned Single Judge on the premise that the award passed by the Industrial Tribunal is not vitiated by any jurisdictional infirmity or error of law apparent on the face of the record. This is

evinced from the following extracts of the order under challenge:

> "The petitioner, as can be seen from the award of the Labour Court, does not dispute the validity of the domestic enquiry proceedings. The petitioner was charge sheeted alleging that he having collected requisite fare from 11 lady passengers failed to issue tickets to them, and he failed to collect fare and issue tickets to about 40 passengers, who boarded the bus at different stages, and he also failed to close the tray numbers of all denominations against stage Nos. 7 to 2 and failed to observe the TIC point at Godduvanipalem i.e., stage No. 7/6. The charges leveled against the petitioner, stood proved in the departmental enquiry. The disciplinary authority, considering the nature of the proved charges, imposed punishment of removal from service. The Labour Court, upon analyzing the evidence before it, and considering the spot explanation of the petitioner, wherein he admitted the irregularities, disbelieved his version that since the bus was overloaded, he could not collect the fare and issue tickets to 11 lady passengers, and that one stranger, who was working as Labour in Hindusthan Shipyard, posing himself as Conductor has collected ticket fare from the passengers, and having found that the petitioner intentionally committed serious cash and ticket irregularities, held that the punishment of removal from service imposed by the disciplinary authority is proportionate to the proved charges. The findings arrived at by the Labour Court being based on proper appreciation of the evidence on record, I see no reason whatsoever to interfere therewith, more so when the charges levelled against the petitioner stood proved in the departmental enquiry and the petitioner also failed to point out any infirmities in the conduct of the departmental enquiry.
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> In **Divisional Controller, KSRTC (NWKRTC) v. A.T. Mane** {(2005) 3 SCC 254}, the apex Court held that once a domestic tribunal based on evidence comes to a particular conclusion, normally it is not open to the appellate tribunals and courts to substitute their subjective opinion in the place of the one arrived at by the domestic tribunal. On the question of quantum of punishment, the apex Court held as follows:
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> Coming to the question of quantum of punishment, one

should bear in mind the fact that it is not the amount of money misappropriated that becomes a primary factor for awarding punishment, on the contrary, it is the loss of confidence which is the primary factor to be taken into consideration.

In the instant case, the charges levelled against the petitioner stood proved, and having regard to the gravity and seriousness of the proved charges, the 2nd respondent-Depot Manager having lost confidence in the petitioner, removed him from service. In such circumstances, I am of the considered opinion that no interference is called for with the impugned award passed by the Labour Court, which upheld the punishment of removal from service imposed on the petitioner by the disciplinary authority, as confirmed by the appellate and review authorities."

Sri T.S.Rayalu tried to persuade us to re-evaluate the evidence produced in the departmental enquiry and argued that the finding recorded by the enquiry officer that the appellant had collected fare from 11 lady passengers and did not issue tickets to them and that large number of persons were allowed to travel without ticket is legally unsustainable, but we have not felt persuaded to agree with him.

The parameters for exercise of High Court's power to issue a writ of certiorari are well defined. Such writ, order or direction can be issued for correcting errors of jurisdiction committed by inferior courts or tribunals or quasi-judicial authorities. A writ can also be issued where, in exercise of jurisdiction conferred on it, the Court or the Tribunal or quasi-judicial authority acts illegally or improperly, i.e., it decides a question without giving an opportunity of hearing to the party affected by the order or where the procedure adopted by it is opposed to the principles of natural justice. However, it must be remembered that the jurisdiction of the High Court to issue a writ of certiorari is supervisory in nature and not appellate one. This necessarily means

that the finding of fact reached by the inferior Court, Tribunal etc., as a result of the appreciation of evidence, cannot be reopened or questioned in writ proceedings except when the judgment, order or award suffers from an error of law apparent on the face of the record. An error of law is one which can be discovered on a bare reading of the judgment, order or award under challenge along with the documents which have been relied upon by the inferior Court, Tribunal or quasi-judicial authority. An error, the discovery of which is possible only after a detailed scrutiny of the evidence produced by the parties and lengthy debate at the bar cannot be regarded as an error of law for the purpose of a writ of certiorari. A finding of fact recorded by an inferior Court or Tribunal or quasi-judicial authority can be corrected only if it is shown that in recording the said finding, the Court etc., had erroneously admitted inadmissible evidence and the same has influenced the impugned finding. Similarly, a finding of fact based on no evidence would be regarded as error of law which can be corrected by issuing a writ of certiorari. However, sufficiency or adequacy of the evidence relied upon by the inferior Court of Tribunal or quasi-judicial authority cannot be gone into by the High Court while considering the prayer for issue of a writ of certiorari. Likewise, mere possibility of forming a different opinion on re-appreciation of evidence produced by the parties is not sufficient for issue of a writ of certiorari. – **Syed Yakoob v. K.S. Radhakrishnan and others**[1], **Shaik Mahammad Umarsaheb v. Kadalaskar Hasham Karimsab and others**[2], **R.S. Saini v. State of Punjab and others**[3], **Mohd. Shahnawaz Akhtar and another v. I ADJ Varanasi & ors.**[4] and **Surya Dev Rai v. Ram Chander Rai** [5].

The learned Presiding Officer of the Tribunal and the learned Single Judge have found that the enquiry held against the appellant was fair and proper. Therefore, we do not see any reason to interfere with the discretion exercised by the disciplinary authority to impose the penalty of removal from service on the appellant.

For the reasons stated above, the appeal is dismissed.

As a sequel to dismissal of the writ appeal, W.A.M.P. No. 465 of 2007 filed by the appellant for interim relief is also dismissed.

G.S. SINGHVI, CJ

C.V. NAGARJUNA REDDY, J

04.06.2007

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[1] AIR 1964 SC 477

[2] AIR 1970 SC 61

[3] JT 1999 (6) SC 507

[4] JT 2002(8) SC 69

[5] 2003(6) SCC 675